

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Case No.: 2:16-cv-01581-JAD-CWH

4 Justin Langford,

5 Plaintiff

6 v.

7 Stan Colton, et al.,

8 Defendants

9
10 **Order Dismissing Action**

11 On June 27, 2017, after plaintiff Justin Langford missed a court-ordered deadline to file
12 an application to proceed *in forma pauperis* or pay the \$400 filing fee but then explained that he
13 had never received the court's order, I gave Langford until August 11, 2017, to pay the fee or file
14 his application. I warned him in bolded type that if he did neither by that extended deadline,
15 **"this case will be dismissed without further prior notice."**¹ Langford did not pay the fee or
16 file an IFP application, and my June 2017 order is the last entry in this docket.

17 District courts have the inherent power to control their dockets and "[i]n the exercise of
18 that power, they may impose sanctions including, where appropriate . . . dismissal" of a case.² A
19 court may dismiss an action based on a party's failure to prosecute an action, failure to obey a
20 court order, or failure to comply with local rules.³ In determining whether to dismiss an action

21 ¹ ECF No. 6 (emphasis in original).

22 ² *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

23 ³ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
24 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
25 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
26 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
27 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
28 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 on one of these grounds, the court must consider: (1) the public's interest in expeditious
2 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
4 availability of less drastic alternatives.⁴

5 The first two factors, the public's interest in expeditiously resolving this litigation and the
6 court's interest in managing its docket, weigh in favor of dismissal. The third factor, risk of
7 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises
8 from the occurrence of unreasonable delay in filing a pleading ordered by the court or
9 prosecuting an action.⁵ A court's warning to a party that its failure to obey the court's order will
10 result in dismissal satisfies the fifth factor's "consideration of alternatives" requirement.⁶ And
11 that warning was given here.⁷ The fourth factor—the public policy favoring disposition of cases
12 on their merits—is greatly outweighed by the factors favoring dismissal.

13 Accordingly, IT IS HEREBY ORDERED that this action is DISMISSED without
14 prejudice for failure to pay the fee or seek pauper status. The Clerk of Court is directed to
15 CLOSE THIS CASE.

16 Dated this 5th day of February, 2018.

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18 U.S. District Judge Jennifer A. Dorsey

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24 ⁴ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
Ferdik, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

25 ⁵ *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

26 ⁶ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

27 ⁷ ECF No. 6.
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